Australian Government
Australian Taxation Office

Australian Taxation Office Legislative Instrument
Instrument ID: 2015/ITX/0007

Wine Equalisation Tax: Correcting WET Errors Determination 2015

Explanatory Statement

General Outline of Instrument

1. This Determination is made under:
   - subsection 17-20(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. The Determination allows you to correct wine tax or wine tax credit errors (WET errors) made in an earlier tax period in a later tax period in specific circumstances.
3. The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The Determination commences the day after its registration.

   It applies in working out wine tax or wine tax credits as part of the calculation of a net amount for a tax period for which you give the Commissioner a GST return on or after the commencement date.

What is this instrument about

5. The instrument's purpose is to specify the circumstances in which you may correct wine tax errors made in working out your net amount for an earlier tax period.
6. Amounts of wine tax and wine tax credits affect the net amount under the GST Act, therefore a Determination in relation to wine tax can be made under subsection 17-20(1) of the GST Act.
7. This instrument applies to wine tax or wine tax credits in a net amount which you report in a GST return on or after the commencement date of this Determination.
8. However, as section 17-20 of the GST Act was amended with effect from 1 July 2012, the Determination does not apply in working out a net amount for a tax period that started before 1 July 2012.

   Example 1

   Assume the Determination commences on 10 April 2015. On 15 April 2015, while preparing its GST return for the quarterly tax period ending 31 March 2015, Wyndham Company realises, 5 days after the commencement date of the Determination, it made an error in relation to wine tax in working out its net amount for the December 2011 quarter.

   As Wyndham Company is giving its GST return for the quarterly tax period ending 31 March 2015 on or after the commencement date, the Determination applies to Wyndham Company even though the error was made in an earlier tax period and corrected in a tax period that ended before the commencement date.

However, the Determination would not apply if Wyndham Company wanted to correct the error in a GST return for a tax period that started before 1 July 2012.

What is the effect of this instrument

9. This Determination means that you can correct an error made in an earlier tax period by taking it into account in the next GST return you lodge with the Commissioner. This is instead of having to either revise an earlier GST return or ask the Commissioner to amend an assessment.
10. This minimises your compliance costs and any liability you may otherwise have to the general interest charge or administrative penalties. The Commissioner's administrative costs are also minimised by reduced costs in processing revised GST returns or amendment requests.

What is an error?

11. An ***error*** is a mistake in relation to wine tax or wine tax credits in working out a net amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in your net amount or assessed net amount being incorrect. Errors can be either debit or credit errors. An error must result in the net amount or assessed net amount for the relevant tax period being incorrect (ie it must be quantified).

Example 2

On 15 December 2013, Wodehouse Company discovers it has not accounted for WET on supplies made for the tax period ended 30 September 2013, for which a GST return was lodged on 21 October 2013. However, it is unable to quantify the amounts and decides to engage an accounting firm to review its accounts.

On 12 February 2014, the accounting firm finalises the review for Wodehouse Company and determines the amount of the unreported WET that relates to the September 2013 tax period is $7,975. As the mistake has now been quantified, it is an error the Determination might apply to.

12. The Determination considers each particular error and its effect on the net amount or assessed net amount as if it was the only mistake made in the earlier tax period. Where there are multiple errors made in working out a net amount for an earlier tax period, each individual error must still be examined to determine whether it is a debit or credit error. The Determination then prescribes the circumstances under which each error may be corrected in working out your net amount for the tax period.
13. A ***debit error*** is a mistake you made in relation to wine tax or wine tax credits in working out a net amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in the net amount or assessed net amount being <u>understated</u>. That is, you owe the Commissioner money
14. Examples of debit errors include:
    - failing to include the wine tax liability on an assessable dealing in wine in the sum of the amounts of wine tax liabilities for the tax period;
    - understating the wine tax payable, for example including a wine tax liability as $1,000 rather than the correct amount of $10,000;
    - clerical errors such as overstating the amount of a wine tax credit in the sum of the amounts of wine tax credits, for example, including an amount of wine tax credit in the sum of the wine tax credits for the tax period twice.
15. A ***credit error*** is a mistake you made in working out your wine tax or wine tax credits included in the net amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in the net amount or assessed net amount being <u>overstated</u>. That is, you are owed money.

16. Examples of credit errors include:

- clerical errors such as reporting wine tax payable on taxable supplies twice;
- overstating the wine tax payable, for example, entering the wine tax liability on sales as $10,800 rather than the correct amount of $10,000;
- under claiming the amount of a wine tax credit in the sum of the amounts of credits for example, entering wine tax credits of $1,000 rather than the correct amount of $10,000.

See paragraph 31 for further explanation in relation to credit errors that also give rise to a wine tax credit because of overpaid wine tax.

Circumstances where an error may be corrected

Error must relate to an amount of wine tax or wine tax credit

17. Clause 4(a) provides that the error must relate to an amount of wine tax or wine tax credit. Accordingly, any error that results in the net amount for an earlier tax period being incorrect due to the operation of the *A New Tax System (Wine Equalisation Tax) Act 1999* is covered by this Determination.

Time limits apply in considering whether an error can be corrected

18. Clause 4(b) provides that an error made in relation to wine tax or wine tax credits in working out a net amount for an earlier tax period that started on or after 1 July 2012, may be corrected in a tax period within the period of review for the assessment of the net amount for that earlier tax period.

19. The period of review starts on the day the Commissioner gives you a notice of assessment and ends four years from the day after the notice of assessment is given. An assessment of your net amount is generally made on the day you lodge your GST return. The GST return is taken to be the notice of assessment given on the same day.

Example 4

Waugh Company, a quarterly lodger, made an error in relation to its wine tax credits for the December 2013 tax period that resulted in its assessed net amount for that tax period being overstated. Waugh Company lodged its GST return on 21 January 2014. Accordingly, Waugh Company must notify the Commissioner of the error within the four year period of review. They may correct the error in a GST return for any tax period within the four year period from 21 January 2014 to 22 January 2018.

20. Clause 4(c) also stipulates that you cannot correct an error made in a tax period that started on or before 30 June 2012 if it relates to an amount to which the four year time limits in sections 105-50 (time limit on recovery by the Commissioner) and 105-55 (time limit on refunds etc. from the Commissioner) in Schedule 1 to the TAA apply to cease the liability of a payment or an entitlement to a refund or credit.

21. The four year time limit in section 105-55 does not apply if the Commissioner notifies you or you notify the Commissioner of your entitlement to the refund, other payment or credit in respect of a tax period within four years after the end of that tax period.

Example 5

Chesterton Company lodges quarterly GST returns and has a current GST turnover of $4 million. In March 2014, Chesterton Company carries out a review of its past GST returns and discovers the following errors:

Tax period	Error	Credit error
December 2007	Double counted WET on assessable dealings	$1,000
September 2010	Under claimed wine tax credits	$22,000
	Total	**$23,000**

Chesterton Company lodges its GST return for the March 2014 tax period on 28 April 2014. Chesterton Company did not give the Commissioner a notification under section 105-55 in Schedule 1 to the TAA in relation to the error that was made in the December 2007 tax period. The time limit for correcting that error expired on 31 December 2011. As a result, the error cannot be corrected.

The $22,000 error in the September 2010 tax period can be corrected in the March 2014 GST return as it was lodged within 4 years from the end of the September 2010 tax period (that is within the time limit prescribed by section 105-55 in Schedule 1 to the TAA).

<u>Compliance activity can impact on correcting an error</u>

22. Clause 4(d) provides that you can only correct an error if, at the time of lodging the GST return, the error does not relate to a matter that is specified as being subject to compliance activity and is not made in working out your net amount for an earlier tax period that is subject to compliance activity.

23. Where an error relates to a matter that is subject to compliance activity or was made in relation to wine tax or wine tax credits in working out a net amount for an earlier tax period that is subject to compliance activity, you cannot correct that error by applying this Determination.

24. The term 'matter' in this context takes on its ordinary meaning and includes any issue or enquiry that is specified as being subject to the compliance activity.

Example 6

In June 2014, the ATO notifies Graves Company that it is conducting a review of its past WET transactions. As a result, Graves Company undertakes its own review of its WET transactions and discovers that it erred in treating a particular transaction as an assessable dealing. Graves Company also erred in claiming wine tax credits in relation to this supply. As these errors relate to a matter that is specified as being subject to compliance activity, Graves Company cannot correct these errors by applying the Determination. They must amend the returns in which the errors occurred, or seek amended assessments for those tax periods.

Example 7

In June 2014, the ATO notifies Graves Company that it is conducting a general review of Graves Company's WET affairs for each of the monthly tax periods ending 31 January 2014 to 28 February 2014. Graves Company also conducts its own review and discovers an error made in relation to wine tax and wine tax credits in working out its net amount for the December 2013 tax period. As the error is made for an earlier tax period that is not subject to compliance activity, Graves Company can correct the error by applying the Determination, if the other conditions are satisfied.

25. A ***compliance activity*** is an examination of your WET affairs and includes matters related to reviews, audits, verification checks, record-keeping reviews/audits and other similar activities. Your WET affairs include your obligation to pay WET or entitlement to be paid a WET refund, as well as matters relating to WET administrative compliance such as record-keeping, book keeping and lodgment of GST returns.

26. A compliance activity begins on the day the Commissioner tells you that an examination is to be made of your WET affairs and ends on the day when one of the following occurs: the Commissioner gives you a notice of assessment or amended assessment for the tax periods under examination or tells you that the examination has been finalised. Usually,

the Commissioner tells you that the ATO is examining your WET affairs in a letter, but you may also be notified through other medium of communication including by e-mail or telephone.

Choice of how to correct an error

27. While the Determination allows you to correct errors made in an earlier tax period in relation to wine tax or wine tax credits in working out a net amount in another tax period, you are not obliged to do so. You can, instead, choose to correct the error by revising the GST return or requesting the Commissioner to amend an assessment for the earlier tax period in which the error was made. If you do this, Clause 4(e) clarifies that you cannot also apply the Determination to correct the error.
28. Clause 4(e) also ensures that you cannot apply the Determination more than once to correct the error. Once you have taken account of that error, to any extent, in working out your net amount for another tax period (ie by applying the Determination to correct an error), you cannot apply the Determination to correct the same error again.
29. This includes, for example, where you partially correct a debit error because the relevant debit error value limit is exceeded, that error has already been taken into account in working out your net amount for another tax period. You cannot apply the Determination to correct any part of that error again.

Debit Errors

30. While Clauses 4(a) to 4(e) apply to all errors, an additional clause - Clause 4(f) - provides that all the conditions in Clauses 4(g) to 4(i) need to be considered before correcting a debit error.

Additional conditions that apply to correcting a debit error

31. In working out your net amount for a tax period, a debit error made in relation to wine tax and wine tax credits in working out your net amount for an earlier tax period may only be corrected:
    - if the error was not a result of recklessness as to the operation of a WET law or intentional disregard of a WET law;
    - if that error is corrected in a tax period that is within the debit error time limit that corresponds with your current GST turnover in the table below; and
    - to the extent that the ***net sum of the debit errors*** is within the debit error value limit that corresponds with your current GST turnover in the table below.

<table>
<tr><th>Current GST turnover</th><th>Debit error time limit</th><th>Debit error value limit</th></tr>
<tr><td>Less than $20 million</td><td>The error must be corrected in a GST return that is lodged within 18 months of the due date of the GST return for the tax period in which the error was made.</td><td>Less than $16,000</td></tr>
<tr><td>$20 million to less than $100 million</td><td rowspan="3">The error must be corrected in a GST return that is lodged within 12 months of the due date of the GST return for the tax period in which the error was made.</td><td>Less than $32,000</td></tr>
<tr><td>$100 million to less than $500 million</td><td>Less than $64,000</td></tr>
<tr><td>$500 million to less than $1 billion</td><td>Less than $128,000</td></tr>
</table>

Current GST turnover	Debit error time limit	Debit error value limit
$1 billion and over		Less than $718,000

32. These additional conditions apply to each debit error. In working out whether the relevant debit error can be corrected in the tax period, and to what extent, all three additional conditions must be satisfied. If any of the conditions are not satisfied (for example, the error is not within the relevant debit error time limit), the debit error cannot be corrected by applying the Determination. Note that in applying the debit error value limit, it is the net sum of the debit errors that must be below the limit, not the amount of the individual debit error.

33. The value limits in the table have been set to closely align with the value limits in *Goods and Services Tax: Correcting GST Errors Determination 2013* (Correcting GST errors Determination). The value limits are different because the tax rates are different, but the value limits closely align based on the value of a transaction using the half retail method of valuing a wine tax assessable dealing.

GST Correcting mistakes limit	$10,000	
GST value of transaction	$110,000	
WET half retail value	$110,000/2	$55,000
WET on that value	$55,000 X 29%	$15,950

Recklessness or intentional disregard of the WET law

34. Clause 4(g) provides that you can only correct a debit error if the error is not a result of recklessness as to the operation of a WET law or intentional disregard of a WET law.

35. The terms ‘recklessness’ and ‘intentional disregard’ have the same meaning as used in Subdivision 284-B in Schedule 1 to the TAA. These concepts describe the behaviour that can give rise to an administrative penalty under this Subdivision.

36. For the Commissioner’s interpretation of the terms ‘recklessness’ and ‘intentional disregard’, you should refer to the Commissioner’s published views of these terms.[1]

37. Taxpayers who deliberately under report their assessed net amount by making one or more debit errors will not be able to correct those errors by applying this Determination as they will not meet the requirements of Clause 4(g). This is irrespective of whether the debit errors would otherwise meet the requirements of Clauses 4(h) and (i).

Example 8

Blyton Company, facing a cash flow problem, deliberately under reports the wine tax payable on its assessable dealings by $10,000 when lodging its GST return for the November 2013 tax period.

As the debit errors (the under reporting of wine tax payable) result from Blyton Company intentionally disregarding the WET law, the errors cannot be corrected by applying the Determination.

Debit error time limit

[1] Miscellaneous Taxation Ruling MT 2008/1 *Miscellaneous tax*: *Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard.*

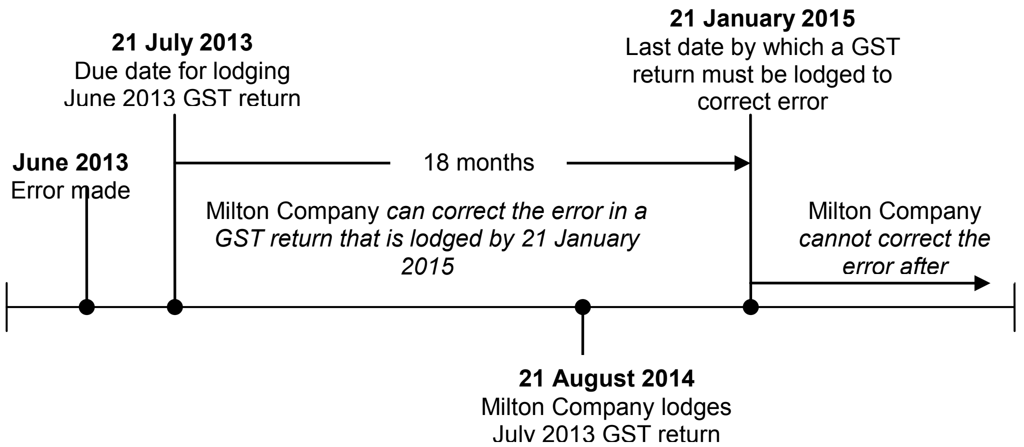
38. In addition to the time limits prescribed in Clause 4(b) [see paragraphs 19 to 22], Clause 4(h) imposes more stringent time limits to correct a debit error. If your current GST turnover is less than $20 million, an error must be corrected in a GST return that is lodged within 18 months of the due date of the GST return for the tax period in which the error was made. If your current GST turnover is at or above $20 million, the time limit is 12 months.
39. The term ***current GST turnover*** for the purposes of the Determination has the same meaning as provided in section 188-15 in the GST Act. Section 188-15 provides that your current GST turnover at a time during a particular month is the sum of the value of all the supplies that you have made, or are likely to make, during the 12 months ending at the end of that month, other than supplies that are input taxed or supplies that are not for consideration or supplies that are not made in connection with an enterprise that you carry on.
40. The value of all the supplies in the definition refers to the GST-exclusive value.
41. Requiring the debit error to be corrected in a GST return that is lodged within 12 or 18 months of the due date for lodging the GST return for the tax period in which the error was made ensures that a consistent time limit applies to all taxpayers regardless of whether the later GST return is lodged on time or not.
42. By contrast, if the time limit was based on the start or end of the tax period for a GST return in which the error is corrected, taxpayers who lodged late would effectively extend the time to correct the error beyond 12 or 18 months from when the error is made.

Example 9

While preparing its July 2014 GST return, Milton Company (a monthly lodger with current GST turnover below $20 million) discovers a debit error of $15,450 in its GST return lodged for the June 2013 tax period.

The error can only be corrected in a GST return that is lodged within 18 months of the due date for lodging the GST return for the tax period in which the error was made. The due date for lodging the GST return in which the error was made was 21 July 2013. Eighteen months from that date is 21 January 2015.

If Milton Company lodges its July 2014 GST return on 21 August 2014 and the debit error meets the other requirements in Clause 4, Milton Company can correct the $15,450 error in that GST return. This is because the lodgment date of 21 August 2014 is within 18 months from the due date of the GST return for the June 2013 tax period (ie 21 July 2013).



Example 10

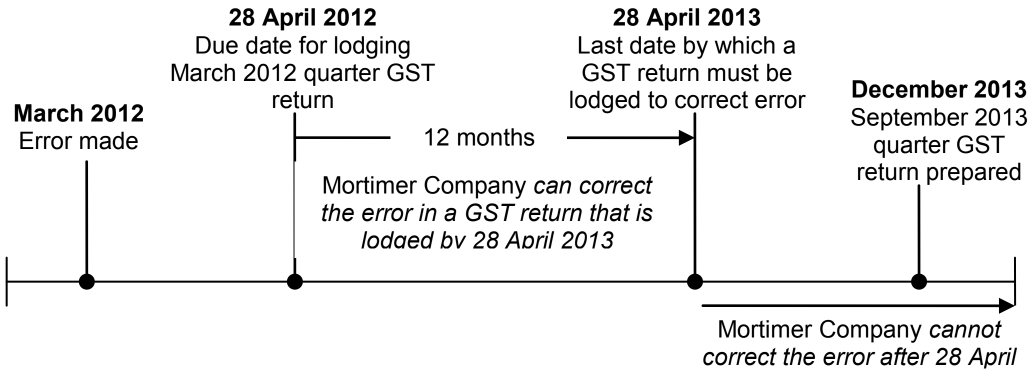
Mortimer Company has a current GST turnover of more than $20 million and lodges its GST returns quarterly. While preparing its GST return for the September 2013 tax period in December 2013, Mortimer Company discovers a debit error made in its GST return for the

March 2012 tax period. The September 2013 GST return is being lodged late as it should have been lodged by 28 October 2013.

The error can only be corrected in a GST return that is lodged within 12 months of the due date for lodging the GST return for the tax period in which the error was made. The due date for lodging the GST return in which the error was made was 28 April 2012. Twelve months from that date is 28 April 2013.

Therefore Mortimer Company must correct the debit error in a later GST return that is lodged on or before 28 April 2013.

Mortimer Company cannot correct the debit error in its September 2013 GST return as it did not lodge that return by 28 April 2013 (ie within 12 months from the due date of the GST return for the March 2012 tax period).



Debit error value limit

43. Clause 4(i) places a further limit on the circumstances under which a debit error may be corrected in relation to wine tax or wine tax credits in working out your net amount for a tax period. It allows you to correct a debit error which satisfies the requirements of Clauses 4(g) and (h), but only to the extent that the ***net sum of the debit errors*** is within the debit error value limit that corresponds with your current GST turnover in the table.

44. The ***net sum of the debit errors*** is a defined term for the purposes of the Determination. It states that the ***net sum of the debit errors*** is the sum of one or more debit errors less the sum of any credit errors which you include in the net amount for the tax period in which you seek to correct the relevant debit error. This formula effectively allows you to offset credit errors against your debit errors for the purposes of working out whether you fall within the relevant debit error value limit.

45. Where the amount determined after applying the formula is less than the relevant debit error value limit (including where it results in a negative value which would occur where the sum of the credit errors exceeds the sum of the debit errors), you satisfy Clause 4(i).

46. Where the ***net sum of the debit errors*** exceeds the debit error value limit, you will only be able to correct the debit error or errors up to the relevant debit error value limit. To the extent of the excess over the relevant debit error value limit, you must revise the GST return for the earlier tax period or request the Commissioner to amend the assessment for the earlier tax period.

47. While there are no restrictions on your ability to correct credit errors, other than those prescribed by Clauses 4(a) to (e), these errors can be taken into account in working out your debit error value limit. However, in working out the ***net sum of the debit errors,*** you only take into account any credit errors which you include in the net amount for the tax period in which you seek to correct the relevant debit error.

48. While Clause 4(i) tests whether the ***net sum of the debit errors*** exceeds the relevant debit error value limit, it ultimately determines the extent to which the individual debit error made in the earlier tax period can be corrected in the later tax period. That is, once you work out the ***net sum of the debit errors*** and whether it is within the relevant debit error value limit, you can then determine the extent to which the individual debit error can be corrected under Clause 4(i).

Example 11

Kipling Company has a current GST turnover of $5 million and lodges its GST returns quarterly. As part of its year-end review for the 2014 income year (conducted at the end of August 2014), it identifies two debit errors made in the previous year:

- an error of $10,000 that occurred in the September 2013 tax period
- a second error of $8,000 that also occurred in the September 2013 tax period.

The requirements of Clauses 6(a) and (b) are satisfied. However, as the net sum of the debit errors ($10,000 + $8,000 = $18,000) exceeds the relevant debit error value limit of $16,000, Kipling Company can only correct the debit errors up to $16,000 in the current tax period. Kipling Company decides to correct the first error of $10,000 and $6,000 (out of the $8,000) of the second error.

The balance of $2,000 of the second error must then be corrected in the earlier tax period in which the error was made. That is, Kipling Company must request the Commissioner to amend its assessment for the September 2013 tax period to increase its assessed net amount by $2,000.

Alternatively, Kipling Company may choose not to apply this Determination but request the Commissioner to amend its assessment for the September 2013 tax period to increase its assessed net amount by $18,000.

Example 12

Tennyson Company lodges quarterly GST returns and has a current GST turnover of $10 million. On 11 October 2015, while preparing the GST return for the September 2015 quarter, Tennyson Company discovers the following errors:

Tax period	Error	Debit error	Credit error
December 2012	Double counted wine tax		$10,000
September 2014	Over claimed wine tax credits	$13,000	
December 2014	Clerical error, transcribing error		$5,000
March 2015	Over claimed wine tax credits	$6,000	
	Total	**$19,000**	**$15,000**

The errors meet the requirements of clauses 4(a) to (e) and for the debit errors, the additional requirements of Clauses 4(g) and (h). Tennyson Company can correct the credit errors by taking them into account in the GST return for the September 2015 quarter.

The net sum of the debit errors is $4,000 (ie $19,000 - $15,000). As the net sum of the debit errors is below the relevant debit error value limit ($16,000), Tennyson Company can correct both of the debit errors by taking them into account in the September 2015 GST return (ie the over claimed input tax credits of $19,000).

Example 13

While preparing its monthly GST return for the August 2014 tax period Beckett Company, which has a current GST turnover above $1 billion, discovers two errors made in relation to wine tax and wine tax credits in working out its net amount for earlier tax periods. One is a credit error for $1.5 million and the other a debit error for $1 million.

Both errors meet the conditions of Clauses 4(a) to (e), and in the case of the debit error, the additional conditions of Clauses 6(g) and (h). The remaining debit error condition is whether Clause 4(i) is also satisfied. That is, whether the net sum of its debit errors is within the debit error value limit of $718,000.

Beckett Company includes the credit error in its GST return for the August 2014 tax period. As the net sum of the debit errors is *minus* $500,000 ($1 million debit errors less $1.5 million credit errors), it is within the debit error value limit of $718,000 which applies to Beckett Company. Accordingly, Beckett Company can correct the debit error of $1 million in its GST return for the August 2014 tax period.

Example 14

Du Maurier Company has a current GST turnover of less than $20 million. While preparing its GST return for the June 2015 quarterly tax period (being lodged on time), it discovers two errors made in relation to wine tax and wine tax credits in working out its net amount for earlier tax periods.

The first error is a $15,000 debit error made in working out the net amount for the March 2014 tax period. The error relates to under reporting wine tax payable on a supply of wine, based on incorrect advice Du Maurier Company received at the time that the supply was a non-assessable dealing. Du Maurier Company lodged its March 2014 GST return on 28 April 2014.

The second error is a $7,000 credit error. Du Maurier incorrectly calculated the value of an assessable dealing for the June 2013 tax period. As a result of the error they overpaid wine tax by $7,000 for the tax period. The $7,000 was not passed on to the purchaser. Du Maurier Company lodged its June 2013 GST return on 28 July 2013

Du Maurier Company is not subject to any compliance activity at the time of preparing its GST return for the June 2015 tax period and has not taken the errors into account in working out its net amount for another tax period.

Du Maurier Company works out whether it can apply the Determination to correct the errors as follows:

Relevant Determination Clauses summary	**Errors made**	
	$7,000 credit error June 2013 quarterly tax period	**$15,000 debit error March 2014 quarterly tax period**
Error relates to an amount of wine tax or wine tax credit under the WET Act [4(a)]?	Yes.	Yes.
Tax period starts on or after 1 July 2012 and you lodge the correction within the period of review for the assessment of the net amount for the earlier tax period [4(b),4(c)]?	Yes. June 2015 quarterly tax period starts within period of review for June 2013 tax period [28 July 2013 to 29 July 2017].	Yes. June 2015 quarterly tax period starts within period of review for March 2014 tax period [28 April 2014 to 29 April 2018].
At time of lodging GST return for the tax period, the error: ▪ does not relate to a matter that is specified as being subject to compliance activity, and ▪ is not made in working out the net amount for an earlier tax period that is subject to compliance activity [4(d)]?	Yes.	Yes.
Error not taken into account in working out net amount for another tax period	Yes.	Yes.

Relevant Determination Clauses summary	Errors made	
	$7,000 credit error June 2013 quarterly tax period	**$15,000 debit error March 2014 quarterly tax period**
[4(e)]?		
Not recklessness or intentional disregard [4(g)]?	N/A – credit error.	Yes.
Errors corrected within applicable debit time limit – corrected in a GST return lodged within 18 months of the due date for lodging the GST return in which the error was made [4(h)]?	N/A – credit error.	Yes. Lodgment date for June 2015 GST return is within 18 months of the due date for lodgment of the March 2014 GST return (ie within 18 months of 28 April 2014).
Net sum of the debit errors within the applicable debit error value limit [4(i)]?	N/A – credit error.	Yes. Net sum of the debit errors is $8,000 ($15,000 less $7,000), which is below the applicable debit error value limit of $16,000.

Du Maurier Company can correct both errors in its GST return for the June 2015 quarterly tax period.

49. The debit error value limit applies to the entity that is required to give to the Commissioner a GST return and is liable to pay WET or entitled to a WET refund. For example, it applies to the representative member of the GST group (rather than each individual member) and the GST joint venture operator of a GST joint venture.

Record Keeping

50. If, in working out your net amount for a tax period, you correct an error that was made in an earlier tax period you must keep records in accordance with section 382-5 in Schedule 1 to the TAA. This includes records that explain the correction of the error in accordance with the Determination.

Background

51. This Determination has been developed following the amendment to section 17-20 of the GST Act, which came into effect on 1 July 2012. The amendment enables the Commissioner to make a Determination to allow errors made in relation to wine tax or wine tax credits in working out a net amount in an earlier tax period, to be taken into account in working out a net amount in a later tax period.

52. This Determination aligns the approach to correct mistakes for WET with the approach for correcting GST mistakes.

Consultation

53. Public consultation was undertaken for the GST Correcting errors Determination. Comments received were taken into account in developing the final determination. That Determination forms the basis of this instrument, therefore a separate consultation process for this instrument has not been undertaken. We have taken into account wine tax specific requests and feedback in developing this instrument.

54. Compliance Cost Impact: Minor – There will be no or minimal impacts to both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

James O’ Halloran
Deputy Commissioner of Taxation

22 July 2015

Legislative references:
A New Tax System (Goods and Services Tax) Act 1999
A New Tax System (Wine Equalisation Tax) Act 1999
Taxation Administration Act 1953
Legislative Instruments Act 2003

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

Wine Equalisation Tax: Correcting WET Errors Determination 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

This Instrument allows taxpayers to correct errors made in a previous GST return, in a later GST return if the requirements outlined in the Instrument are satisfied. This helps taxpayers to minimise their compliance costs as taxpayers no longer need to revise a GST return for an earlier tax period to correct certain errors and will not be subject to any general interest charge or penalties.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms. It specifies the circumstances in which a taxpayer may correct errors that were made in working out their net amount for an earlier tax period, in a later tax period.

Conclusion

This Instrument is compatible with human rights as it does not raise any human rights issues.